

House Bill 878

By: Representative Franklin of the 43<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To provide for a short title; to report the findings of the General Assembly regarding the  
2 constitutionality of certain federal laws and other mandates; to amend Article 1 of Chapter  
3 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to prohibit  
4 state or federal agents or employees of financial institutions from seizing assets under color  
5 of law; to provide for penalties and other punishment; to provide for an effective date; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known as the "State Authority and Deposit Security Act."

10 **SECTION 2.**

11 The General Assembly finds that:

12 (1) The Tenth Amendment to the United States Constitution guarantees to the states and  
13 the people all powers not granted to the federal government elsewhere in the Constitution  
14 and not prohibited by the Constitution;

15 (2) The Ninth Amendment to the United States Constitution guarantees to the people all  
16 rights not otherwise enumerated in the Constitution;

17 (3) Article I, Section 8, Clause 6 of the United States Constitution grants the federal  
18 government the power to punish persons for counterfeiting the securities and current coin  
19 of the United States;

20 (4) Article I, Section 8, Clause 10 of the United States Constitution grants the federal  
21 government the power to punish persons for piracies and felonies on the high seas and  
22 for offenses against the law of nations;

23 (5) Article III, Section 3 of the United States Constitution grants the federal government  
24 the power to prescribe the punishment for treason;

(6) The United States Constitution contains no other grant of power, general or specific, to Congress or the federal government, to provide for the punishment of any other crimes;

(7) Congress and the federal government have enacted laws, executive orders, rules, regulations, and other mandates that are beyond the scope of these constitutionally delegated powers;

(8) Any actions taken by the federal government through its agents or employees that are not authorized by the Constitution of the United States are unlawful; and being unlawful, they are criminal offenses against the affected parties; and

(9) The State of Georgia hereby reclaims authority under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the states in the Constitution of the United States.

### SECTION 3.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by adding a new Code section, to read as follows:

"16-8-22.

(a) An officer, agent, or employee of the federal government or of a state or federal financial institution commits the offense of theft by color of law when such officer, agent, or employee seizes or attempts to seize any money in a financial institution in this state belonging to a citizen of this state unless the seizure is pursuant to a federal court order based upon a conviction for:

(1) Counterfeiting the securities and current coin of the United States;

(2) Piracies and felonies on the high seas;

(3) Offenses against the law of nations; or

(4) Treason.

(b) It shall not be an affirmative defense to a prosecution under subsection (a) of this Code section that the defendant was acting under color of law unless he or she is enforcing an order based upon a conviction for a crime enumerated in subsection (a) of this Code section.

(c) A person convicted of a violation of subsection (a) of this Code section shall be guilty of a felony and shall be punished by imprisonment for up to ten years for each \$1,000.00 or portion thereof seized or attempted to be seized and by a fine in an amount equal to triple the amount seized or attempted to be seized, which fine shall be paid to the victim of the offense."

58 **SECTION 4.**

59 This Act shall become effective upon its approval by the Governor or upon its becoming law  
60 without such approval.

61 **SECTION 5.**

62 All laws and parts of laws in conflict with this Act are repealed.